

House Study Bill 667 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED SECRETARY OF
STATE BILL)

A BILL FOR

1 An Act relating to the administration of the election laws
2 by the secretary of state and including effective date
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 49.4, subsection 1, Code 2009, is amended
2 to read as follows:

3 1. Where a civil township, or the portion of a civil
4 township outside the corporate limits of any city of over
5 two thousand population contained ~~therein~~ within the civil
6 township, is divided into two or more election precincts, the
7 precincts shall be so drawn that their total populations shall
8 be reasonably equal on the basis of data available from the
9 most recent federal decennial census, except where the division
10 is necessary to comply with section 49.3, subsection 3.

11 Sec. 2. Section 49.8, Code 2009, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 3A. If city population data certified by
14 the United States bureau of the census following the federal
15 decennial census is revised and the revision is certified by
16 the United States bureau of the census, such revisions may
17 be used to revise precinct and ward boundaries in accordance
18 with the requirements of sections 49.3 and 49.5. The board of
19 supervisors shall determine whether such revised population
20 data affects the population equality of supervisor districts.
21 If necessary, the temporary county redistricting commission
22 shall be reconvened, notwithstanding section 331.210A,
23 subsection 4, and supervisor districts shall be revised
24 in accordance with the requirements of section 331.210A,
25 subsection 2.

26 Sec. 3. Section 49.13, Code Supplement 2009, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 3A. In appointing the election board to
29 serve for a nonpartisan election, the commissioner may give
30 preference to the persons who are willing to serve without pay
31 identified pursuant to section 49.15, subsection 2, paragraph
32 "b", by the city council or the school board.

33 Sec. 4. Section 49.14, subsections 1 and 2, Code 2009, are
34 amended to read as follows:

35 1. The commissioner may appoint substitute precinct

1 election officials as alternates for election board members.
2 The responsibilities and duties of a precinct election
3 official, ~~other than the chairperson,~~ present at the time the
4 polling place was opened on the day of an election may be
5 assumed at any later time that day by a substitute appointed
6 as an alternate. The substitute shall serve either for the
7 balance of that election day or for any shorter period of
8 time the commissioner may designate. At partisan elections,
9 a substitute precinct election official assuming the duties
10 of a precinct election official shall be a member of the same
11 political party as the precinct election official whose duties
12 are being assumed, unless substitution of a precinct election
13 official not of the same political party results in no more
14 than a simple majority of the total number of precinct election
15 officials serving in that precinct being members of the same
16 political party.

17 2. Substitute precinct election officials shall be
18 appointed and shall serve in accordance with sections 49.12,
19 49.13, 49.15, and 49.16, and shall receive compensation as
20 provided by sections ~~49.19,~~ 49.20, and 49.125. Upon arriving
21 at the polling place and prior to performing any official duty,
22 a substitute precinct election official shall take the oath
23 required by section 49.75.

24 Sec. 5. Section 49.15, subsection 2, paragraph b, Code 2009,
25 is amended to read as follows:

26 *b.* The commissioner may also place on the election board
27 panel names of persons whom either the city council of a city
28 ~~of three thousand five hundred or less population~~ or a school
29 board has advised the commissioner at least thirty days before
30 each primary election are willing to serve without pay at
31 elections conducted for that school district or city, as the
32 case may be, during the tenure of the election board panel on
33 which these names are included.

34 Sec. 6. Section 49.16, subsection 4, Code 2009, is amended
35 to read as follows:

1 4. In appointing the election board for any election
2 conducted for a city of ~~three thousand five hundred or less~~
3 ~~population~~, or any a school district, the commissioner may give
4 preference to any persons who are willing to serve without pay
5 at those elections.

6 Sec. 7. Section 49.20, Code 2009, is amended to read as
7 follows:

8 **49.20 Compensation of members.**

9 The members of election boards shall be deemed temporary
10 state employees who are compensated by the county in which they
11 serve, and shall receive compensation at a rate established
12 by the board of supervisors, which shall be not less than
13 the minimum wage established in section 91D.1, subsection
14 1, paragraph "b", while engaged in the discharge of their
15 duties and shall be reimbursed for actual and necessary travel
16 expense at a rate determined by the board of supervisors,
17 except that persons who have advised the commissioner prior to
18 their appointment to the election board that they are willing
19 to serve without pay at elections conducted for any a school
20 district or a city of ~~three thousand five hundred or less~~
21 ~~population~~, shall receive no compensation for service at those
22 elections. Compensation shall be paid to members of election
23 boards only after the vote has been canvassed and it has been
24 determined in the course of the canvass that the election
25 record certificate has been properly executed by the election
26 board.

27 Sec. 8. Section 49.72, Code 2009, is amended to read as
28 follows:

29 **49.72 Absentee voters designated before polling place opened.**

30 The commissioner shall deliver to each precinct election
31 board not less than one hour before the time at which the
32 polls are to open for any election the list of all registered
33 voters of that precinct who have been given or sent an
34 absentee ballot for that election, and the election board shall
35 immediately designate those registered voters who are so listed

1 and therefore not entitled to vote in person at the polls,
2 except as required by provided in section 53.19, subsection 3.

3 Sec. 9. Section 49.77, subsection 4, paragraph c, Code
4 Supplement 2009, is amended to read as follows:

5 c. A person who has been sent an absentee ballot by mail but
6 for any reason has not received it shall be permitted to cast a
7 ballot in person pursuant to section 53.19 ~~and in the manner~~
8 ~~prescribed by section 49.81.~~

9 Sec. 10. Section 49.81, subsection 1, Code 2009, is amended
10 to read as follows:

11 1. A prospective voter who is prohibited under section
12 48A.8, subsection 4, section 49.77, subsection 4, ~~or~~ section
13 49.80, or section 53.19, subsection 3, from voting except under
14 this section shall be notified by the appropriate precinct
15 election official that the voter may cast a provisional
16 ballot. ~~If a booth meeting the requirement of section~~
17 ~~49.25 is not available at that polling place, the precinct~~
18 ~~election officials shall make alternative arrangements to~~
19 ~~insure the voter the opportunity to vote in secret.~~ The voter
20 shall mark the ballot, ~~fold it or insert it in a secrecy~~
21 ~~envelope as required by section 49.84,~~ and immediately seal
22 it in an envelope of the type prescribed by subsection 4.
23 The voter shall deliver the sealed envelope to a precinct
24 election official who shall deposit it in an envelope marked
25 "provisional ballots". The ballot shall be considered as
26 having been cast in the special precinct established by section
27 53.20 for purposes of the postelection canvass.

28 Sec. 11. Section 49.104, subsection 3, Code 2009, is amended
29 to read as follows:

30 3. Any number of persons not exceeding three at a time from
31 each of such political parties, appointed and accredited in the
32 same manner as ~~above~~ prescribed in subsection 2 for challenging
33 committees, and any number of persons not exceeding three at a
34 time appointed as observers under subsection 5, to witness the
35 counting of ballots. Subject to the restrictions of section

1 51.11, the witnesses and observers may observe the counting
2 of ballots by a counting board during the hours the polls are
3 open in any precinct for which double election boards have been
4 appointed.

5 Sec. 12. Section 51.11, Code 2009, is amended to read as
6 follows:

7 **51.11 Presence of persons.**

8 No person shall be admitted into the space or room where such
9 ballots are being counted until the polls are closed, except
10 the counting board, and the witnesses appointed and accredited
11 under section 49.104, subsection 3, and the observers appointed
12 under section 49.104, subsection 5. It shall be unlawful
13 for any witness or observer to communicate or attempt to
14 communicate, directly or indirectly, information regarding the
15 progress of the count at any time before the polls are closed.

16 Sec. 13. Section 53.18, subsections 2 and 3, Code Supplement
17 2009, are amended to read as follows:

18 2. If the commissioner receives the return envelope
19 containing the completed absentee ballot by 5:00 p.m. on the
20 Saturday before the election for general and primary elections
21 and by 5:00 p.m. on the Friday before the election for all
22 other elections, the commissioner shall open the envelope to
23 review the affidavit for any deficiencies completeness. If the
24 affidavit ~~contains a deficiency that would cause the ballot~~
25 ~~to be rejected~~ is incomplete, the commissioner shall, within
26 twenty-four hours of the time the envelope was received, notify
27 the voter of that fact and that the voter may ~~correct the~~
28 ~~deficiency~~ complete the affidavit in person at the office of
29 the commissioner by 5:00 p.m. on the day before the election,
30 vote a replacement ballot in the manner and within the time
31 period provided in subsection 3, or appear at the voter's
32 precinct polling place on election day and cast a ballot in
33 accordance with section 53.19, subsection 3.

34 3. If the affidavit envelope ~~is open when received by the~~
35 ~~commissioner, or has been opened and resealed, or if the ballot~~

1 ~~is not enclosed in the affidavit envelope~~ contains a defect
2 that would cause the absentee ballot to be rejected by the
3 absentee and special voters precinct board, the commissioner
4 shall immediately notify the voter of that fact and that
5 the voter's absentee ballot shall not be counted unless the
6 voter ~~applies for a replacement ballot~~ requests and returns
7 the a replacement ballot in the time permitted under section
8 53.17, subsection 2. ~~The replacement ballot application shall~~
9 ~~be the same as is required for an application under section~~
10 ~~53.2. If the information on the replacement ballot application~~
11 ~~matches the information on the original application, the~~
12 ~~voter shall be allowed to complete a replacement absentee~~
13 ~~ballot. The voter may request a replacement ballot in person,~~
14 in writing, or over the telephone. The same serial number
15 that was assigned to the records of the original absentee
16 ballot application shall be used on the envelope and records
17 of the replacement ballot. The affidavit envelope containing
18 the completed replacement ballot shall be marked "Replacement
19 ballot". The affidavit envelope containing the original
20 ballot shall be marked "~~Defective ballot~~" "Defective" and the
21 replacement ballot ~~and replacement ballot application~~ shall be
22 attached to the ~~original application and~~ affidavit envelope
23 containing the original ballot and shall be stored in a secure
24 place until they are delivered to the absentee and special
25 voters precinct board, notwithstanding sections 53.26 and
26 53.27.

27 Sec. 14. Section 53.19, Code 2009, is amended to read as
28 follows:

29 **53.19 Listing absentee ballots.**

30 1. The commissioner shall maintain a list of the absentee
31 ballots provided to registered voters, the serial number
32 appearing on the unsealed envelope, the date the application
33 for the absentee ballot was received, and the date the absentee
34 ballot was sent to the registered voter requesting the absentee
35 ballot.

1 2. The commissioner shall provide each precinct election
2 board with a list of all registered voters from that precinct
3 who have received an absentee ballot. The precinct officials
4 shall immediately designate on the election register those
5 registered voters who have received an absentee ballot and are
6 not entitled to vote in person at the polls, except as provided
7 in subsection 3.

8 3. a. ~~However, any~~ A registered voter who has received an
9 absentee ballot and not returned it may surrender the absentee
10 ballot to the precinct officials and vote in person at the
11 polls. The precinct officials shall mark the uncast absentee
12 ballot "void" and return it to the commissioner.

13 b. Any A registered voter who has ~~been sent~~ requested an
14 absentee ballot by mail but for any reason has not received
15 it or who has not brought the ballot to the polls may appear
16 at the voter's precinct polling place on election day and,
17 after the precinct election officials confirm the commissioner
18 has not received the voter's absentee ballot, the voter
19 shall be permitted to vote in person at the polls. If the
20 precinct election officials are unable to confirm whether the
21 commissioner has received the voter's absentee ballot, the
22 voter shall cast a ballot in accordance with section 49.81.

23 c. Any A registered voter who has been notified by
24 the commissioner pursuant to section 53.18 of the need to
25 ~~correct a deficiency on~~ complete the affidavit or ~~to apply~~
26 ~~for and~~ vote a replacement absentee ballot and who has not
27 ~~corrected the deficiency~~ completed the affidavit or voted a
28 replacement absentee ballot may appear at the voter's precinct
29 polling place on election day and, after the precinct election
30 officials confirm the voter has not completed the affidavit
31 or voted a replacement ballot, the voter shall be permitted
32 to vote in person at the polls. If the precinct election
33 officials are unable to confirm whether the voter has completed
34 the affidavit or voted a replacement ballot, the voter shall
35 cast a ballot in accordance with section 49.81.

1 Sec. 15. Section 260C.15, Code Supplement 2009, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 3A. *a.* Objections to the legal sufficiency
4 of a nomination petition or to the eligibility of a candidate
5 may be filed by any person who would have the right to vote for
6 a candidate for the office in question.

7 *b.* The objection must be filed with the secretary of the
8 board as least thirty-five days before the day of the election
9 at which members of the board are elected. When objections
10 are filed, notice shall immediately be given to the candidate
11 affected, addressed to the candidate's place of residence as
12 given on the candidate's affidavit, stating that objections
13 have been made to the legal sufficiency of the petition or to
14 the eligibility of the candidate, and also stating the time and
15 place the objections will be considered. The board secretary
16 shall also attempt to notify the candidate by telephone if
17 the candidate provided a telephone number on the candidate's
18 affidavit.

19 *c.* Objections shall be considered not later than two working
20 days following the receipt of the objections by the president
21 of the board of directors, the secretary of the board, and
22 one additional director of the board chosen by ballot. If
23 objections have been filed to the nominations of either of the
24 directors, that director shall not pass on the objection. The
25 director's place shall be filled by a member of the board of
26 directors against whom no objection exists. The replacement
27 shall be chosen by ballot.

28 Sec. 16. REPEAL. Section 49.19, Code Supplement 2009, is
29 repealed.

30 Sec. 17. EFFECTIVE UPON ENACTMENT. The sections of this Act
31 amending sections 49.13, 49.14, 49.15, 49.16, and 49.20, and
32 repealing section 49.19, being deemed of immediate importance,
33 take effect upon enactment.

34 EXPLANATION

35 This bill makes changes relating to the policy

1 administration of the election laws by the secretary of state.

2 Code section 49.4, relating to the drawing of election
3 precincts, is amended to specify that the requirement that
4 election precincts be composed of contiguous territory
5 within a single county, the boundaries of which are to follow
6 the boundaries of census tracts, takes precedence over the
7 requirement that townships of over 2,000 population be divided
8 into precincts of "reasonably equal" population.

9 Code section 49.8 provides exceptions to the limitation
10 that election precincts be redrawn or changed only in the year
11 following the federal decennial census. The Code section
12 is amended to provide that a city may revise its precinct
13 boundaries if there are revisions to the city's population data
14 certified by the United States census bureau. The Code section
15 is also amended to provide that if such revised population data
16 affects the population equality of supervisor districts, the
17 temporary county redistricting commission shall be reconvened
18 to revise the boundaries of those districts.

19 Code section 49.13 is amended to authorize the county
20 commissioner of elections, when appointing an election board
21 panel for nonpartisan elections to give preference to persons
22 identified by a city or school district as willing to serve
23 without pay.

24 Code section 49.14 is amended to allow for the substitution
25 of a precinct chairperson during the course of the election day
26 and also allows for substitution of an election official from
27 a political party other than that of the official vacating if
28 such substitution would not cause the political party balance
29 among the precinct election officials to be out of compliance
30 with statutory requirements.

31 Code section 49.15 is amended to provide that the city
32 council of any city may notify the county commissioner of
33 elections of persons in the city willing to serve on precinct
34 election boards at a city election without pay. Under
35 current law, only cities with a population of 3,500 or less

1 could notify the commissioner. The bill makes corresponding
2 amendments to Code sections 49.16 and 49.20 and a corresponding
3 repeal of Code section 49.19.

4 The sections of the bill amending Code sections 49.13,
5 49.14, 49.15, 49.16, and 49.20, and repealing Code section
6 49.19 take effect upon enactment.

7 Code section 49.81 is amended to strike language in that
8 Code section that is redundant to Code section 49.84, regarding
9 marking and returning a ballot.

10 Code section 51.11, relating to double counting election
11 boards appointed by the county commissioner of elections for
12 each election in which a high voter turnout is anticipated,
13 is amended to include observers appointed to observe at the
14 polling place as persons who may be admitted to the room to
15 witness the counting of ballots. A corresponding amendment is
16 made to Code section 49.104.

17 Code section 53.19 prescribes procedures to be followed on
18 election day regarding persons who requested to vote absentee
19 for that election. The bill amends Code section 53.19 to
20 provide that a person who received an absentee ballot and who
21 did not surrender the ballot at the polling place, or a person
22 who was notified of a deficiency on the affidavit accompanying
23 a returned absentee ballot, is required to vote a provisional
24 ballot only if the precinct election officials at the polling
25 place are unable to confirm whether the commissioner received
26 an absentee ballot from the voter or whether the voter
27 completed the affidavit or voted a replacement absentee ballot,
28 whichever is applicable. The bill makes conforming amendments
29 to Code sections 49.72, 49.77, 49.81, and 53.18.

30 Code section 260C.15 is amended to establish a procedure
31 for objections to the nomination petition or eligibility of
32 a candidate for member of the board of directors of a merged
33 area.